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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,753	08/01/2003	Stephan Nowak	PO-7806/LeA 36,050	4656
157	7590	06/10/2004	EXAMINER	
BAYER POLYMERS LLC 100 BAYER ROAD PITTSBURGH, PA 15205			CYGAN, MICHAEL T	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/632,753

Applicant(s)

NOWAK, STEPHAN

Examiner

Michael Cygan

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08/01/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

The disclosure is objected to because of the following informalities: a section entitled "Brief Description of the Drawings" is required to appear immediately before the section entitled "Detailed Description of the Invention", listing each figure along with a brief description. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Kiesewetter (US 4,554,821). Kiesewetter discloses the claimed invention, a method comprising providing a horizontally arranged transparent capillary open on both sides and connected at one end to a reservoir (acting as a container since it contains received fluid), and measuring the velocity and distance of the liquid column in the capillary at time intervals. The capillary diameter may be 0.5 mm; the capillary may be disposable (single use); the device is arranged on a support; the reservoir may have a volume of 0.5 mL. See entire document, especially Figure 1; column 5 lines 27-39; column 6 lines 6-28; column 7 lines 1-68.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-8 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kiesewetter (US 4,554,821) in view of Hajduk (US 6,732,574 B2). Kiesewetter teaches the claimed invention except for a plurality (such as 5) of parallel measurements utilizing an electronic evaluation unit. Hajduk teaches a capillary-based viscometer measuring velocity and distance of a liquid column in a plurality (such as 5) of parallel measurements utilizing an electronic evaluation unit; see abstract and column 3 lines 33-49. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a plurality (such as 5) of parallel measurements utilizing an electronic evaluation unit as taught by Hajduk in the invention taught by Kiesewetter to perform measurements, since parallel testing with computer analysis will advantageously increase the number of samples able to be analyzed and decrease operator error.

Claims 9 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kiesewetter (US 4,554,821) in view of Hajduk (US 6,732,574 B2) as applied to claims 3 and 4, further in view of Shin (US 6,598,465 B2). The claimed invention is considered to be taught except for the use of a camera having computer-controlled

image evaluation. Shin teaches a capillary-based viscometer measuring velocity and distance of a liquid column using a camera having computer-controlled image evaluation; see column 11 lines 33-49. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a camera having computer-controlled image evaluation as taught by Shin in the invention taught by Kieseewetter to perform measurements, since Shin teaches improved accuracy thereby.

Claims 10 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kieseewetter (US 4,554,821) in view of Hajduk (US 6,732,574 B2) as applied to claims 3 and 4, further in view of Spaid (US 6,681,616 B2). The claimed invention is considered to be taught except for the use of fluorescence. Spaid teaches the use of fluorescence detection in viscometry; see column 2 lines 45+ and column 4 lines 50-57. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use fluorescence as taught by Spaid in the invention taught by Kieseewetter to perform measurements, since this would enable improved analysis of clear fluids or fluids which otherwise would be improved through the use of a fluorescent marker.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Davis (US 5,447,440), Shin (US 6,523,396), and Shin (US 2002/0184941 A1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cygan whose telephone number is (571) 272-2175. The examiner can normally be reached on 8:30-6 M-Th, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Michael Cygan', with a large, stylized loop at the end.

Michael Cygan  
Primary Examiner  
Art Unit 2855